

**Alleged Unauthorised Development**  
**West Malling**                      **17/00077/LBH**  
West Malling &  
Leybourne

Location:                              Five Pointed Star 100 High Street West Malling Kent ME19  
6NE

---

**1. Purpose of Report:**

- 1.1 To report the unauthorised construction of a pergola within the curtilage of a listed building.

**2. The Site:**

- 2.1 The site lies within West Malling Rural Service Centre, on the west side of West Malling High Street, about 50m south of the junction with West Street, and within the West Malling Conservation Area. The building is also Grade II listed.
- 2.2 The site accommodates a two-storey listed building occupied as the Five Pointed Star public house. The front elevation of the building stands directly on the back edge of the public footpath. The site includes a vehicular access to the south of the building which leads to an open area of land which is used for customer parking.

**3. Relevant Planning History:**

TM/17/01693/FL      Refused                      9 May 2018

Retrospective application: Erection of pergola enclosed by fencing within the rear courtyard

**4. Alleged Unauthorised Development:**

- 4.1 Without planning permission the unauthorised construction of a pergola structure.

**5. Determining Issues:**

- 5.1 Retrospective planning permission for the structure in question was refused under planning reference TM/17/01693/FL under delegated powers on 09 May 2018. Planning permission was refused for the following reason:

- 1     *The development by virtue of its excessive size, incongruous design and appearance and specific siting is out of character with the listed building to which it is attached and furthermore causes overt harm to the appearance and setting of the listed building and the West Malling Conservation Area in which the building is located. As such the development is contrary to Policy CP24 of the Tonbridge and Malling Borough Core Strategy 2007, and to Policy SQ1 of the Tonbridge and Malling*

*Managing Development and the Environment Development Plan Document 2010, and contrary to the requirements of paragraphs 131 and 132 of the National Planning Policy Framework (2012).*

- 5.2 As such, the development does not have the benefit of planning permission and the decision to refuse on a retrospective basis for the reasons above indicates that it is not acceptable in planning terms, for the reason given above. It is therefore necessary to serve an Enforcement Notice to remove the structure and remedy the identified harm. I would recommend that a reasonable period of time to remove the structure would be one calendar month from the notice taking effect.
- 5.3 Members should note that the time period in which the owners of the property have to appeal the refusal of planning permission has not yet lapsed. In the circumstances I can see no reason to delay the commencement of enforcement proceedings through the serving of the notice, of which there is also a right of appeal in any event.
- 5.4 In light of the above, the following recommendation is put forward.

**6. Recommendation:**

- 6.1 An Enforcement Notice **BE ISSUED** to seek the removal of the unauthorised structure, the detailed wording of which to be agreed with the Director of Central Services.

Contact: Sam Chalmers-Stevens